

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 CR 137	DATE	10/31/2003
CASE TITLE	USA vs. RONALD MIKOS		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] ENTER MEMORANDUM OPINION AND ORDER: defendant's motion for disclosure of Rule 608 evidence of character and conduct is DENIED.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.	<div style="text-align: center;"> <p>U.S. DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS CLERK'S OFFICE</p> <p>NOV 4 2003</p> <p>DATE/TIME RECEIVED IN CENTRAL CLERK'S OFFICE</p> </div>	number of notices	<div style="border: 1px solid black; padding: 5px;"> <p>Document Number</p> <p style="font-size: 2em;">115</p> </div>
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v,

RONALD MIKOS

No. 02 CR 137

Honorable Ronald Guzman

DOCKETED
NOV 04 2003

MEMORANDUM OPINION AND ORDER

Mikos seeks disclosure of any specific instances of misconduct the government will use to impeach him under Fed. R. Evid. 608(b) should he testify at trial. Rule 608(b) contains no notice provision. In response the prosecution points out that "[n]o rule or rationale guarantees the defense advance knowledge of legitimate impeachment before it calls a witness. *United States v. Baskes*, 649 F.2d 471, 477 (7th Cir. 1980)." (*Government's Consolidated Response* Pg. 3) In point of fact it is not evidence that the government intends to use that plaintiff seeks, as Fed.R.Evid. 608(b) does not delineate evidence that the government may actually use in court or introduced at trial, so much as types of conduct which may be inquired about on cross examination of defense witnesses. In fact, the rule specifically states the prior instances of conduct being used solely to attack a witness' credibility may not be proven by extrinsic evidence, but only inquired into during cross-examination if they relate to the witness' character for truthfulness. It is, therefore, not evidence that the defense seeks by this motion, but rather insight into what the government knows about the defendant's prior conduct and how it intends to use this knowledge at trial. We agree with the government that this goes too far. Further, the information-at least as to the prior conduct, if not the government's intention to use it, is easily available to the defense from the defendant himself. Finally, any particular instances which the

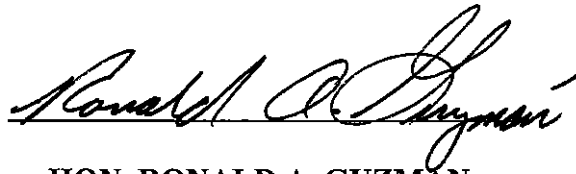
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defense objects to can be brought to the court's attention in a motion in limine.

For the reasons stated above defendant's motion for disclosure of Rule 608 evidence of character and conduct is DENIED.

SO ORDERED

ENTER: 10/31/03

A handwritten signature in black ink, appearing to read "Ronald A. Guzman", written over a horizontal line.

HON. RONALD A. GUZMAN
United States Judge